

1977

# Societal Reaction To Deviants: The Case of Criminal Defendants

Ilene Nagel Bernstein

*Indiana University School of Law*

William R. Kelly

*Indiana University - Bloomington*

Patricia A. Doyle

*Indiana University - Bloomington*

Follow this and additional works at: <http://www.repository.law.indiana.edu/facpub>

 Part of the [Criminal Law Commons](#), and the [Criminology Commons](#)

---

## Recommended Citation

Bernstein, Ilene Nagel; Kelly, William R.; and Doyle, Patricia A., "Societal Reaction To Deviants: The Case of Criminal Defendants" (1977). *Articles by Maurer Faculty*. Paper 2080.

<http://www.repository.law.indiana.edu/facpub/2080>

This Article is brought to you for free and open access by the Faculty Scholarship at Digital Repository @ Maurer Law. It has been accepted for inclusion in Articles by Maurer Faculty by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact [wattn@indiana.edu](mailto:wattn@indiana.edu).

- Storer, N. W.  
1973 *Focus on Society: An Introduction to Sociology*. Reading, Ma.: Addison-Wesley.
- Sumner, W. G.  
1906 *Folkways*. Boston: Ginn.
- Weber, M.  
1947 *The Theory of Social and Economic Organizations*. New York: Oxford University Press.
- Weick, K. E. and D. P. Gilfillan  
1971 "Fate of arbitrary traditions in a laboratory microculture. *Journal of Personality and Social Psychology* 17:179-91.
- Winer, B. J.  
1962 *Statistical Principles in Experimental Design*. New York: McGraw-Hill.
- Woodward, C. V.  
1957 *The Strange Career of Jim Crow*. New York: Oxford University Press.
- Zimmerman, D. H. and M. Pollner  
1970 "The everyday world as a phenomenon." Pp. 33-65 in John Douglas (ed), *Understanding Everyday Life*. Chicago: Aldine.

## SOCIETAL REACTION TO DEVIANTS: THE CASE OF CRIMINAL DEFENDANTS \*

ILENE NAGEL BERNSTEIN

WILLIAM R. KELLY

PATRICIA A. DOYLE

*Indiana University*

*American Sociological Review* 1977, Vol. 42 (October):743-755

*Recent reformulations of the societal reaction theory argue that the thesis is a perspective rather than a theory, and that the perspective is meant to provide a set of sensitizing concepts to those researching deviance. This research examines the degree of congruence between hypotheses deduced from those assertions and a set of real world occurrences. Data for a sample of male defendants charged with felony offenses are examined to estimate the effects of (1) deviants' social attributes, (2) the specific societal reactors, (3) the values placed on certain offenses and (4) the organizational imperatives of the deviance-controlling organization, controlling for the alleged offense, on the probability of being labeled and sanctioned for deviant behavior. Our analyses indicate that characteristics associated with the alleged offense account for more of the explained variance in the labeling decision examined here (full prosecution) than in the sanctioning (sentence severity) decision. Moreover, while we find the deviants' social attributes do have some significant effects, relative to the effects of other variables, these effects are small and not always in the predicted direction. We suggest the interactionist perspective shift its focus toward greater attention to organizational imperatives and the values and expectations of those meting out the societal reaction as key variables explaining the imperfect correlation between deviant acts and the reaction to same.*

Beginning with the work of Tannenbaum (1938) and Lemert (1951), a central concern for the study of deviance has been the delimitation of factors that affect the decisions and actions of deviance-controlling organizations and the conse-

quences of these decisions and actions for persons labeled as deviants. This concern is motivated by a theoretical interest in the way in which discretion is manifested in the societal reaction to deviants (Pound and Frankfurter, 1922; Becker, 1963; Turk, 1969) and by a methodological interest in the role of discretion in the production of deviance statistics and deviance categories used in sociological research (Garfinkel, 1956; Kitsuse and Cicourel, 1963).

While interest in the manifestation of discretion continues, it is now generally agreed that the core writings articulating the societal reaction thesis should not be

\* Partial support for this research was provided by a Daniel and Florence Guggenheim Fellowship to the senior author during her year of residence at Yale Law School. Special thanks are extended to the Vera Institute of Justice for collecting these data, and to Martin Barr, Lucy Friedman, Arlene Gens and Charles Kuhlman of the Vera staff for their valuable comments. Thanks too to Peter Burke, John Cardascia, Jan Leung, Barbara Schulz, Jackson Toby, Austin Turk and Stanton Wheeler for comments on earlier drafts of this manuscript.

treated as a formal theory. Rather, it is argued that these writings provide a set of "sensitizing concepts" relevant to the study of deviance (Schur, 1971; Becker, 1973). However, acceptance of the idea that what was formally termed "labeling or societal reaction theory" is not a *theory*, does not preclude the still unmet need for empirical examinations of the congruence between hypotheses deduced from these "sensitizing conceptions" (or, as Becker, 1973, terms it, interactionist perspective) and real world occurrences. It is to this task that this research is addressed.

A review of the works generally construed as representative of the societal reaction thesis (e.g., Lemert, 1951; Becker, 1963; Erikson, 1964) as well as the recent modifications and reformulations of same (e.g., Lofland, 1969; Schur, 1971; Becker, 1973; Goode, 1975) reveals consensus in emphasis, and relative agreement on a core set of assertions. The emphasis mandates that the study of deviance include attention to the process by which purported rule violators come to have deviant status conferred upon them. The core assertions include: (1) the definition of persons as deviant is a constructed definition resulting from a set of interactive processes (Lofland, 1969; Becker, 1973; Goode, 1975); (2) the societal reaction to deviants is not a direct result of the alleged deviant act (Erikson, 1964; Becker, 1963; 1973; Kitsuse and Cicourel, 1963; Schur, 1971); (3) the societal reaction to deviants varies with the social attributes of the alleged deviant (Becker, 1964; Quinney, 1970); (4) the societal reaction to deviants varies with the organizational imperatives of the deviance-controlling organization (Schur, 1971; Becker, 1973), with the persons doing the reacting (Becker, 1973), with the expectations and values of the reactors (Turk, 1969; Schur, 1971), with the deviants' ability to avoid the imposition of the deviant label (Schur, 1971) and with a variety of other ancillary factors (Goode, 1975).<sup>1</sup>

<sup>1</sup> In addition to the above, there are a set of core assertions that relate to the effect the deviant label has upon subsequent deviant behavior. Our analyses do not address these issues. For a review of research that does, see Gove (1975).

Despite the relative agreement as to the emphasis and core concepts, there is little agreement between proponents and critics as to what are the empirically testable hypotheses logically deduced from these concepts. For example, Tittle (1975) argues that one of two theoretically provocative hypotheses is that social attributes of the alleged deviant explain *more variance* in the societal reaction than does the alleged rule-violating behavior. Schur (1975), however, contends that the very hypothesis that Tittle rejects as uninteresting is the one in which interactionists are interested, i.e., social attributes of the alleged deviant affect the societal reaction to deviants (regardless of the size of their effect relative to other variables). Schur concurs with Becker (1973) in arguing that the intent of interactionists is to expand the amount of explained variance in the societal reaction, not to restrict it to a thesis that makes the social attributes of the alleged deviant the major determinative factor. This disagreement spills over to the evaluation of the extant research. For example, in Tittle's (1975) review of research on the reaction to alleged law violators, he concludes there is little support for the hypothesis that social attributes of the deviant explain more variance than the alleged criminal act. Furthermore, he cites Hagan's (1974) review of extra-legal attributes and sentencing to buttress his inclination to conclude that the data don't support his version of the interactionist thesis. However, Tittle's acknowledgement of the methodological limitations of the extant research, coupled with the disparity between his and Schur's definition of the critical hypothesis, precludes him from reaching definitive conclusions about the explanatory power of the interactionist perspective.

Insofar as the interactionist perspective (whether a theory, a set of sensitizing concepts, or a perspective) continues to dominate deviance research, we think it would be most fruitful to examine the degree to which empirical data are consistent with the hypotheses that most closely conform to the assertions of those proposing them. By so doing, we hope to broaden the knowledge base and reduce

the likelihood that empirical findings will be disregarded on the basis of their addressing the wrong questions.

In accordance with our review of interactionist writings, we take a central question to be, controlling for the alleged deviant act, what other factors account for explained variance in societal reactions? Specifically, we deduce the following hypotheses to explore the degree to which interactionists' assertions properly specify and emphasize the relevant determinative factors: (1) indicators of the alleged deviant act don't account for all of the explained variance in societal reactions; (2) social attributes of the alleged deviant account for some of the explained variance (the expectation being that the socially disadvantaged will be responded to more negatively); (3) organizational imperatives account for some of the explained variance, as do the individual persons doing the reacting, the values of the reactors and other ancillary factors.

Before proceeding, we need to acknowledge an obvious leap we make here from the interactionists' assertions to our own specification of research questions. Recall that the emphasis mandated was that the study of deviance attend to the process. Accordingly, a methodological preference for field observations and qualitative analyses is often expressed. While we grant the value of these methods, we contend that quantitative analyses of the same or related questions are not precluded. Gibbs (1972:47), for example, argues that if the ratio of persons formally identified as deviants to those labeled as deviants (e.g., arrested/convicted) is not 1:1, the basis for that disparity needs to be empirically explored. Becker (1973:16-7), Kitsuse (1975) and Schur (1975) articulate a commitment to the value of quantitative analyses that address interactionist questions. The most compelling justification, however, comes from Goode (1975:579) in his call for probability estimates of varying societal reactions, given various conditions: "A completely situational view of deviance can be intellectually paralyzing. The probabilistic view rescues us from the solipsistic logical extreme of absolute situational relativity. . . ." Thus, while we have leaped from the interactionist's as-

sertions to a set of questions couched in terms most congruent with multivariate analyses, the justification for so doing can be well documented.

### *Research Setting*

The criminal justice system is a strategic arena in which to research interactionist questions because there is general consensus that criminal justice decisions, e.g., arrest, severity of sentence, are labeling decisions, i.e., decisions that can be taken as valid indicators of formal societal reactions. Moreover, criminal justice decisions occur in sequence. As such, in examining the bases for one decision, one also can examine the effect of a prior decision. To illustrate: in examining the bases for sentence severity, one can consider a defendant's release status prior to trial, a status that itself represents the culmination of a prior deviance processing decision. Finally, the fact that the criminal justice system operates like a sieve, filtering out defendants at each stage of the process (Blumberg, 1967; Rosett and Cressey, 1976) makes it amenable to analyses organized more like a tree than a table. Schur (1971) and Hagan (1974) underscore this point, noting that the processing of deviants involves a series of decision-making stages, and not all deviants continue through all of the stages. As such, processual analyses that begin with a sample of deviants, and examine sequential decisions where the sample for whom the decision is relevant decreases with each new decision, can bring to light the manifestation of discretion at different stages in deviance processing.

### *Sample*

Our sample consists of all males arraigned in a city in New York State, from December, 1974 to March, 1975, whose most severe arrest charge was a *felony charge*, whose cases were not disposed of at first court presentation<sup>2</sup> and whose

<sup>2</sup> Seventeen percent of persons arrested for felonies are finally disposed of at their first court presentation, i.e., within 24 hours after the arrest.

cases were finally disposed of in criminal court within the four-month period of observation, by a judgment other than an acquittal, by judges who disposed of more than one percent of the cases ( $N = 1,213$ ).<sup>3</sup> For each of these 1,213 defendants, court record data were recorded daily for the judicial disposition of every court appearance. Data on the defendant's criminal history were recorded from state criminal records and data on defendant's demographic characteristics from personal interviews conducted during the 6–24-hour period immediately following the defendant's arrest (while he was in custody) and preceding his first arraignment hearing. Data on the characteristics of the criminal offense were obtained from court records.

In addition to the above, complementary qualitative data were collected by the senior author through court observations and interviews with judges, prosecutors, defense attorneys and auxiliary court personnel. The qualitative observations were used to determine (1) which exogenous variables to include, (2) the appropriate way to code these variables and (3) major interpretations of results.

---

Since the disposition process is so truncated, we analyzed data for this group separately. Our findings indicate that the factors that affect the three disposition decisions for these defendants are quite different from those affecting the same decisions for those not so rapidly disposed. These additional data may be obtained from the senior author.

<sup>3</sup> The criminal court in the city from which these data come is a misdemeanor court. As such, only cases where the conviction charge is less than a felony as included here, despite the fact that the arrests were all for felonies. However, we can estimate that our sample of felony cases represents about 92% of total felony arrests, since we know that in the observation period, only 8% of the cases were waived to the grand jury for indictment and supreme court processing. Female defendants are excluded because of the developing literature on women in crime (e.g., Brodsky, 1975; Simon, 1975). Since we could not attend to the theoretical propositions of that literature, we exclude them here. Similarly, persons arrested for misdemeanors are excluded here and analyzed in another paper. Acquittals were excluded because there were too few cases acquitted. Finally, we only include cases disposed of by judges who disposed of more than 1% of the cases such that we could reduce the number of relevant judges from 52 to 17, clearly a more manageable number.

### *Endogenous Variables*

Three endogenous variables are examined. While these three variables don't represent all of the decision stages, they do represent the critical formal reactions of the collective audience once the deviants have been brought before the deviance-controlling organization.

For all defendants in our sample ( $N = 1,213$ ), we examine the decision to fully prosecute a case or to terminate the case by dismissal ( $Y_1$ ). Since nearly forty percent of our defendants (and comparable proportions of other samples of defendants, e.g., Hagan, 1975; Zeisel et al., 1975) are dismissed, research examining the bases for sentencing decisions must examine the bases for the prior decision that determines whether a defendant will be eligible for sentencing. With the exception of Burke and Turk (1975) Hagan (1975) and Zeisel et al. (1975), most prior research on sentencing (e.g., Chiricos and Waldo, 1975; Swigert and Farrell, 1977) ignores this important prior selection process.

For those defendants whose cases are not terminated by a dismissal ( $N = 733$ ), we examine whether the defendant was adjudicated guilty and sentenced, or whether the defendant was adjudicated guilty but not formally convicted and thus not subjected to a sentencing decision ( $Y_2$ ). Our data come from a criminal justice system that has formalized this second decision in its ACD statute (adjournment in contemplation of dismissal). Defendants whose final disposition is an ACD are adjudicated guilty but not formally convicted unless they are rearrested and charged with a new offense in the six-month period following the original ACD disposition. Since their record carries no conviction, they receive no sentence. This is a particularly interesting labeling decision since *both* those given ACDs and those moved on for sentencing are presumed guilty as charged.

Finally, for those defendants whose cases were not terminated by a dismissal or an ACD ( $N = 510$ ), we examine the severity of the sentence meted out as a measure of the severity of the formal societal reaction ( $Y_3$ ). Sentence severity is



analyzed as an ordinal scale (see  $Y_3$ , Table 1). The determination of the order is in accordance with that specified by the judges, prosecutors and defense attorneys whom we interviewed.

### *Exogenous Variables*

Since we define our research as exploratory, a large number of exogenous variables are examined in the preliminary stage of our analyses. We included variables related to the defendant's social attributes, e.g., race, age, education, marital status; variables that might determine the reactor's expectations for and perceptions of certain deviants, e.g., the defendant's prior criminal record; variables related to the organizational imperatives of the deviance-controlling organization, e.g., the defendant's cooperation during the arrest, the defendant's acceptance of guilty plea offers; variables related to the individual's doing the reacting, e.g., judges; and variables summarizing the results of prior processes, e.g., the defendant's release status pending his final disposition. In addition, variables related to the alleged offense, e.g., the type of crime, number of charges, and severity of the charges are included. A list of exogenous variables and the way in which each is coded is presented in Table 1.

### *Analyses*

The data are analyzed using dummy variable regression procedures. The general appropriateness of these techniques is reviewed in Cohen (1968) and Kerlinger and Pedhazur (1973). Since we define our research as exploratory, nominal variables are effect-coded (Kerlinger and Pedhazur, 1973:172-85). That is, comparisons are made between each category and the mean of the other categories, rather than between one category and some arbitrarily selected left-out category.

Since there are no published data on a number of variables here considered, we examined first the zero-order correlations between all of the exogenous variables and the three endogenous variables. No problems of multicollinearity were appar-

ent. In the regression equations on which Table 2 is based, only variables whose net effects were statistically significant at .10 were included.<sup>4</sup> An exception to this is that certain variables were deemed control variables, e.g., the severity of the most severe arrest charge and the type of crime; as such, they were entered into every equation. Finally, the regression coefficients presented represent the coefficients from the equations where the appropriate judges have been stepped in. A comparison of the coefficients before and after controlling for judges revealed little changes in the coefficients. However, the procedure was kept to provide a measure of control for variation by judge and an estimate of the increased variance explained by judges.

### *Results*

Table 2 presents the regression coefficients for those exogenous variables that had net effects on the first endogenous variable ( $Y_1$ ). If a variable appears in Table 1 and not in Table 2, that variable did not have a statistically significant effect.

According to Table 2, the likelihood of being dismissed is increased if: (1) the defendant's most serious arrest charge was a burglary or assault charge; (2) the defendant's total number of arrest charges was lesser rather than greater; (3) the defendant was detained in jail while awaiting his final disposition; (4) the defendant's felony charge was reduced to a misdemeanor at the latest possible opportunity, i.e., at or after his preliminary hearing.

Since dismissal is purportedly a function of the strength of the evidence (Miller, 1970), we discuss first those findings interpretable as reflective of evidentiary concerns. The fact that we find defendants charged with burglary more likely to have their cases dismissed may be a function of burglary cases being difficult to prosecute

<sup>4</sup> Our selection of .10 reflects our concern for using too stringent criteria in exploratory work, the possibility of a type II error, and a concern for the continuing debate about the use of significant tests (Morrison and Henkel, 1970) as the determinant of which variables to include in a model.

Table 1. Variables, Notation, and Frequencies

Notation	Variable	Scale	Frequencies (1,213)
Y <sub>1</sub>	Disposition— Dismissal	Not dismissed (0) Dismissed (1)	60.5% 39.5%
Y <sub>2</sub>	Disposition— A.C.D.	Not A.C.D. (0) A.C.D. (1)	81.5% 19.5%
Y <sub>3</sub>	Disposition— Sentence	Discharge (1) Time served (2) Fine only (3) Fine under \$50 with jail default (4) Fine over \$50 with jail default (5) Probation (6) Jail (7)	24% 4% 2.5% 6.5% 19% 16% 28%
X <sub>1</sub>	Severity of Arrest Charge	Violation (1) Unclassified misdemeanor (2) B misdemeanor (3) A misdemeanor (4) E felony (5) D felony (6) C felony (7) B felony (8) A felony (9)	.... .... .... .... 21% 47% 19% 10% 3%
X <sub>2</sub>	Severity of Arraignment Charge <sup>a</sup>	Violation (1) Unclassified misdemeanor (2) B misdemeanor (3) A misdemeanor (4) E felony (5) D felony (6) C felony (7) B felony (8) A felony (9)	2% .... 3% 10% 20% 40% 16% 9% 2%
X <sub>3</sub>	Arrest Charge Burglary <sup>b</sup>	Miscellaneous (–1) Not burglary nor misc.(0) Burglary (1)	19.5% 57.5% 23%
X <sub>4</sub>	Arrest Charge Robbery	Misc. (–1) Not robbery nor misc. (0) Robbery (1)	19.5% 66% 15%
X <sub>5</sub>	Arrest Charge Drugs	Misc. (–1) Not drugs nor misc.(0) Drugs (1)	19.5% 73.5% 7.0%
X <sub>6</sub>	Arrest Charge Larceny or Theft	Misc. (–1) Not larceny nor misc. (0) Larceny (1)	19.5% 61.0% 19.5%
X <sub>7</sub>	Arrest Charge Assault	Mis. (–1) Not assault nor misc. (0) Assault (1)	19.5% 64.5% 16.0%
X <sub>8</sub>	Total Number of Arrest Charges	Interval Scale 1–6	$\bar{x}$ = 2.01
X <sub>9</sub>	Total Number of Arraignment Charges	Interval Scale 1–4	$\bar{x}$ = 1.10
X <sub>10</sub>	Arrest or Arraignment Charge Including Possession of Weapon Charge	No (–1) Yes (1)	91% 9%

Table 1. (continued)

Notation	Variable	Scale	Frequencies (1,213)
X <sub>11</sub>	Arrest or Arraignment Charge Including Resisting Arrest Charge	No (-1) Yes (1)	94% 6%
X <sub>12</sub>	Race/Ethnicity <sup>c</sup>	Black or Spanish (-1) White (1)	88.5% 11.5%
X <sub>13</sub>	Age	Interval Scale 14-75	$\bar{x}=26.74$
X <sub>14</sub>	Time Employed <sup>d</sup>	Unemployed 6+ months (1) Unempl. less than 6 mos. (2) Empl. less than 6 mos. (3) Employed 6+ mos. (4)	. . . . 29% 29% 13% 29%
X <sub>15</sub>	Weighted Index of Prior Convictions <sup>e</sup>	Interval Scale 1-36	$\bar{x}=2.37$
X <sub>16</sub>	Elapsed Time since Most Recent Arrest <sup>f</sup>	0-3 days (1) 4-180 days (2) 181-365 days (3) 366-729 days (4) 2-5 years (5) 5+ years (6)	0.5% 15.5% 6.0% 7.0% 9.0% 26.0%
X <sub>17</sub>	Pretrial Release Status <sup>g</sup>	Detained more than or equal to 30 days (1) Detained less than 30 days (2) Released on bail (3) Released on personal recog. (4)	16.5% 25.0% 2.0% 53.5%
X <sub>18</sub>	Felony Charge Reduced to Misdemeanor at First Presentation <sup>h</sup>	Reduced at adj. after arraignment (-1) Reduced at prel. hearing (0) Yes (1)	59.0% 34.0% 7.0%
X <sub>19</sub>	Felony Charge Reduced to Misdemeanor at Preliminary Hearing <sup>i</sup>	Reduced at adjournment after arraignment (-1) Reduced at 1st pres. (0) Yes (1)	59% 7% 34%
X <sub>20</sub>	First Arrest	No (-1) Yes (1)	64% 36%

<sup>a</sup> Severity of the arraignment charge was examined separately from the arrest charge because the arraignment charge is the charge for which the defendant was prosecuted, and it may differ from the arrest charge. Severity is coded here and in X<sub>1</sub> from least to most severe, and the severity code corresponds to the most severe charge if there was more than one charge.

<sup>b</sup> The type charge for X<sub>3</sub>-X<sub>7</sub> was coded in accordance with the most severe arrest charge.

<sup>c</sup> Race/ethnicity was also examined as Black/White/Spanish. Since the difference in effects was White/Black or Spanish, the white-nonwhite code is presented.

<sup>d</sup> Time employed is used instead of income because there is very little variation on income in this sample and because employment stability rather than income was observed to be a question often raised in court.

<sup>e</sup> Prior felony convictions were given 3 points, prior misdemeanor convictions 2 points and prior violations 1 point. The index is the sum of these scores. The data were analysed with prior convictions differentiated as well.

<sup>f</sup> The arbitrary coding here was exactly as the data were collected by the pre-trial services agency.

<sup>g</sup> The defendants' status while awaiting final disposition was broken into these four categories because prior research has been criticized for failing to differentiate between those detained for longer versus shorter periods of time.

<sup>h</sup> The first presentation is the first arraignment hearing.

<sup>i</sup> The preliminary hearing is the last point at which felony charges can be reduced in criminal court. If the felony charge remains, the case is waived to Supreme Court.



Table 2. Zero-Order Correlation and Regression Coefficients for Exogenous Variables with  $Y_1$ ,  $Y_2$ , and  $Y_3$  ( $p < .10$ )

Variables	$Y_1$ (Dismissal)			$Y_2$ (ACD)			$Y_3$ (Sentence Severity)		
	$\rho$	$b$	$\beta$	$\rho$	$b$	$\beta$	$\rho$	$b$	$\beta$
$X_3$	.05	.035 (.018)	.047						
$X_4$							.07	.801 (.296)	.195
$X_5$				.13	.141 (.072)	.155			
$X_7$	.01	.036 (.021)	.044				-.07	-.425 (.257)	-.107
$X_8$	-.08	-.022 (.010)	-.042	-.08	-.085 (.046)	.065			
$X_{11}$				-.06	-.089 (.030)	.107			
$X_{12}$							.05	.302 (.162)	.082
$X_{14}$							.02	.168 (.085)	.087
$X_{15}$				-.14	-.006 (.004)	-.069	.15	.068 (.021)	.162
$X_{16}$							.02	-.161 (.072)	-.165
$X_{17}$	-.05	-.034 (.007)	-.092	.22	.078 (.013)	.214	-.21	-.274 (.085)	-.151
$X_{18}$	.55	-.083 (.024)	-.106						
$X_{19}$	.77	.447 (.016)	.853						
$X_{20}$				.20	.082 (.018)	.170	-.10	-.374 (.205)	-.142
$R^2$ with judges/ without judges		.625/.610			.232/.188			.154/.114	
Number of cases		1213			733			510	
$R^2$ increment for judges		.015 ( $p < .05$ )			.044 ( $p < .05$ )			.040 ( $p > .05$ )	

Standard errors in parentheses.

successfully. Many burglaries are committed at times and in places where eyewitnesses are not present. The absence of witnesses naturally reduces the strength of the evidence. Our finding that defendants who have less rather than more arrest charges are more likely to be dismissed also may be related to evidence, since those with more charges are often those against whom a stronger case can be made. Finally, our most important finding, i.e., that defendants whose felony charges are not reduced until the final opportunity are more likely to be dismissed, also may be construed as reflective of evidentiary problems. These defendants have continued in the court process longer than their counterparts; as such, the standard for continuance of the case has increased. Specifically, Zeisel et al. (1975:134) note: "The standard for sufficient evidence to continue a case becomes more stringent as the criminal process proceeds. To sustain initial prosecution, 'probable cause' is sufficient evidence; eventually [however] proof of guilt 'beyond a reasonable doubt' is needed."

While the findings discussed above are interpreted as reflecting problems of evidence, for sociology the interesting findings are those that don't fit neatly into that interpretation. The question is, to what degree do they fit the interactionist perspective?

Starting with the easiest variable, our finding that individual judges do significantly affect the dismissal decision (see note, Table 2) is consistent with prior research (Hogarth, 1971) and with the interactionist thesis (Becker, 1973) that those playing the role of societal reactor significantly affect the nature of the reaction. In the absence of additional data beyond the judges' identification, we can't explain what it is about individual judges that correlates with the dismissal decision. Future research should make this a priority concern.

Our finding that defendants charged with assault are more likely to be dismissed may reflect the lesser value placed on interpersonal violence when it occurs *among* minority groups. While we lack individual data on victims, our court observations revealed that almost all of the

assault cases prosecuted were assaults between persons of the lower classes who predominate in the catchment area served by this court. Like Garfinkel (1949) and Bensing and Schroeder (1962), we suggest that interpersonal violence evokes a lesser response when both the defendant and the victim are socially disadvantaged because there is less concern for disadvantaged victims. This finding is consistent with the interactionist thesis that the "value" of the offense, as perceived by the reactors, affects the determination of the societal response (Schur, 1971).

Finally, our finding that the defendant's release status prior to disposition affects the likelihood of dismissal is of interest, since we find being *pre-trial detained increases the likelihood of being dismissed*. Thirty-nine percent of those detained in jail while awaiting their final disposition are ultimately dismissed. Admittedly, this seeming inconsistency is possible while still operating within legal statutes. However, it is ideologically problematic to note that so many persons are detained while awaiting dispositions for charges for which they will ultimately not be convicted. Our observations suggest that some court agents are using court processes as sanctions. That is, they assume that defendants who have been detained already have been sanctioned. To save the court further expenditures of time and money, the detention experience is treated as having provided the necessary "taste of jail" to deter future crime. While our observations of the treatment of the detained affirm the appropriateness of the assumption that they have been sanctioned, the question is whether some of these dismissals are obscuring a kind of discrimination against the economically disadvantaged. To elaborate: if the defendant was detained because he couldn't post bail and his subsequent dismissal reflected a presumption of his innocence, his inability to post bail would have caused him to be severely sanctioned. The subsequent dismissal of his case obscures the fact that he has been punished unnecessarily. Ultimately, to determine whether this kind of discrimination is widespread, one needs to know the basis upon which the pre-trial release decision

was made. Again, future research should probe this question in greater depth.

To summarize for this first dependent variable, i.e., the dismissal decision, we find the assertions of the interactionist perspective to be modestly supported. While we do find factors associated with the alleged offense don't account for all of the explained variance, almost all of the explained variance can be interpreted to be a function of the strength of the evidence. Unless the strength of the evidence can be shown to be related systematically to extra-legal considerations, the argument that dismissal decisions are based on misappropriated discretion has to be seriously questioned. Furthermore, the variables examined here to indicate the defendant's social attributes (e.g., race, education) are found to have no significant effects. The above notwithstanding, we do find that the persons doing the reacting (e.g., judges), the values attached to specific types of crimes (e.g., assaults), the organizational imperatives of the court (e.g., dismissal of persons detained before trial) and statuses resulting from prior decision processes do significantly affect the societal reaction, controlling for the alleged deviant act. These effects, however, are all relatively small.

Table 2 also presents the regression coefficients for those exogenous variables that had net effects on the second endogenous variable ( $Y_2$ ). The decision to adjourn a defendant in contemplation of a dismissal is increased if: (1) the defendant's most serious arrest charge is a drug charge; (2) the defendant's total number of arrest charges was lesser rather than greater; (3) the defendant was *not* charged with "resisting arrest"; (4) the defendant has less rather than more prior convictions; (5) the defendant had never been arrested prior to this arrest; (6) the defendant was released from custody pending his final disposition.

Our finding that defendants who have "cleaner" prior criminal records are more likely to be favored with this ACD disposition suggests differentiation on the basis of accumulated disadvantaged status. That is, those with heavy prior records, having previously been adjudicated guilty, have already accrued a disadvantaged

label. Whether differentiation on the basis of this prior disadvantaged status is discriminatory depends on whether the status of "prior convicted offender" was ascribed or achieved. To the extent that one's conviction for a prior crime was not entirely a function of the alleged offense, the negative effect of a prior record can be interpreted as partly discriminatory. Until such time as we can partial out achieved disadvantaged status from ascribed, the issue of infinite regress remains problematic.<sup>5</sup>

Our finding that defendants charged with resisting arrest are less likely to be favored with this disposition is consonant with the interactionist thesis that the organizational imperative to maintain good relationships among criminal justice personnel affects societal reactions. Blumberg (1967), Chambliss and Seidman (1971) and Rosett and Cressey (1976) underscore the importance of the police to the criminal justice system and the need to sanction those who counter police authority.

Our finding that defendants who are released while awaiting their final disposition are more likely to be given ACD dispositions is consistent with the Wald and Freed (1966) and Roballo (1974) thesis that defendants carrying the label of "pre-trial detainee" are processed with an additional negative status. The fact that a defendant was not released pending disposition signifies that the defendant was deemed a poor flight risk, a danger to society and/or economically disadvantaged. If a prior set of societal reactors responded negatively to the defendant, it might be organizationally functional to maintain consistency in decision making,

<sup>5</sup> The problem of infinite regress is important because the law provides for consideration of decisions resulting from prior processing, e.g., ex-convict status. However, since we know that whether someone carries forward "ex-convict" status is not entirely a function of prior deviant behavior (Bernstein et al., 1977), there begins to be a meshing of legal and extra-legal considerations. Moreover, since discretion operates at every stage of the process, one can always argue that some prior process problem of infinite regress should be kept in mind to stimulate new lines of inquiry. It should not, however, be used to discount findings that fail to account for the entirety of processing.

thus the denial of the favorable ACD disposition. Alternatively, social typing (Schur, 1971) might be occurring wherein the defendant's release status prior to disposition is treated as a category defining a set of appropriate responses. Since being detained prior to disposition is the least favorable category, a negative response to those so categorized becomes understandable.

Finally, as before, we find those acting out the part of the societal reactors, i.e., the judges, have a significant net effect on the ACD decision.

To summarize, whereas the dismissal decision was largely determined by consideration of factors related to evidence, our analysis of the decision to favor a defendant with a "second chance" finds somewhat stronger evidence in support of interactionist assertions. Variables associated with the alleged offense neither account for all of the explained variance nor have the largest effects. Rather, it seems that organizational imperatives (e.g., deference to the police), the individuals who are reacting, and negative status labels carried forth from prior decision processes (e.g., prior criminal record) play the major role in determining whether a defendant will be adjourned in contemplation of dismissal. As before, we must reiterate the very notable lack of significant effects for the social attributes of the defendant here examined.

Finally, we present the regression coefficients for those exogenous variables that had net effects on the third endogenous variable ( $Y_3$ ). According to Table 2, the likelihood that a convicted defendant will receive a *more severe sentence* is increased if: (1) the defendant is charged with robbery; (2) the defendant has a heavier record of prior convictions; (3) the defendant has been employed for a *longer* rather than shorter period of time and (4) the defendant is *white*. The likelihood of receiving a *less severe sentence* is increased if: (1) the defendant is charged with assault; (2) the defendant has no prior arrest record; (3) the defendant has maintained a "clean record" for a longer period of time and (4) the defendant was released from custody pending his final disposition.

Since the direction of these findings is

identical to those earlier noted and we have already provided interpretative comments, we limit our discussion to those findings upon which we have not previously commented. We interpret the finding that defendants whose most serious arrest charge is robbery are more severely sentenced to be a function of the high value placed on robbery offenses in this geographic area, at this point in time. Public concern for increasing robberies, especially violent robberies against the elderly and the handicapped, was extremely high when these data were collected. Thus, the value attached to the crime may explain the severe response to those so accused (Turk, 1969; Schur, 1971).

The finding that white defendants, as well as defendants who have been employed for longer periods of time, are more severely sentenced is unexpected. While these effects are smaller than those of other exogenous variables, they are statistically significant. Clearly, they may be due to chance, given the large number of variables considered. However, on the assumption that the findings are reliable, we advance the following as a possible explanation. According to some of our interviewees, some judges and prosecutors assume that nonwhites commit crimes because the nonwhite subculture accepts such behavior. These subcultural differences are considered by the judges and prosecutors, thereby making the offenses of nonwhites seem less pernicious. However, no comparable "account" is available for white defendants. Expectations for them are higher and, as such, their failure to meet such expectations may appear more noxious—thus, the more severe sanction. The same explanation was put forth for defendants holding steady jobs. While this line of interpretation is speculative, future researchers should make a priority of the collection of data that would allow us to estimate the degree to which the expectations and tolerances held for certain groups of deviants and deviance affect societal reactions.

To summarize, the severity of the sanction meted out to convicted defendants is not a direct result of the alleged offense. While none of the effects are large, the determination of the harshness of the re-

sponse is affected by consideration of the public concern for particular offenses, the expectations held for various groups of deviants, and the status labels that defendants carry forth from prior stages of deviance processing.

### *Conclusion*

We began with the presumption of an imperfect correlation between deviant acts and the societal reaction to those acts. Taking the broad view that there are a variety of factors that account for that independence, we analyzed three sequential societal reaction decisions. Our data indicate, first, that the variety of contingency factors emphasized by interactionists as explaining the independence between deviant acts and the reaction to same explain more variance in later rather than earlier deviance-processing decisions. That is, extra-legal factors explain more variance in sentence severity decisions than in prosecution and adjudication decisions. However, since we have not here analyzed the entirety of decisions, i.e., decisions that precede the dismissal decision (e.g., arrest) nor those following the determination of sentence decision (e.g., parole), we limit our conclusion to an assertion that the amount of variance explained by characteristics of the deviant act varies with the decision being made and the point in time at which the decision occurs. This suggests that comparable data sets need to be analyzed for all the deviance-processing decisions in sequence. When this task is accomplished, we should be able to determine whether the independence between deviant acts and societal reactions increases or decreases as one moves through deviance-processing stages.

Second, the emphasis that interactionists place on the role of the deviants' social attributes in explaining variation in societal reactions seems very much overstated. Our finding that age, education, employment stability, marital status, and race have no effects on the first two societal reactions decisions, and only small effects on the third societal reaction decision, suggests that the theoretical focus requires considerable shifting. Spe-

cifically, we interpret our findings to suggest that greater attention be paid to (1) organizational imperatives of the deviance-controlling agency, (2) the expectations and values of those participating in the decisions and (3) the role of accumulated disadvantaged statuses acquired in prior deviance-processing stages. While our results affirm the assertion that these factors significantly affect societal reactions, they do not provide the depth needed to construct a theory explicating the conditions under which these factors are more or less salient and when salience represents systemic discrimination. Future research should make this a priority.

Finally, in terms of sociological theory, while we find the thrust of the interactionist perspective and its core assertions are consonant with real world occurrences, the perspective is so broadly stated that it precludes the refinement necessary for the assertions to be linked into some useful theory. Accordingly, we suggest more empirical exploration be undertaken, with an eye toward the emergence of a grounded theory of deviance. To the extent that the results of empirical research can delimit the various stages of deviance processing, and the precise degree of, and bases for discretion at each stage, we can begin to articulate an empirically based theory.

### REFERENCES

- Becker, Howard S.  
1963 *Outsiders: Studies in the Sociology of Deviance*. New York: Free Press.
- 1964 *The Other Side: Perspectives on Deviance*. New York: Free Press.
- 1973 "Labeling theory reconsidered." Pp. 3-32 in Sheldon Messinger, Seymour Halleck, Paul Lerman, Norval Morris, Patrick V. Murphy and Marvin Wolfgang (eds.), *Crime and Justice Annual*. Chicago: Aldine.
- Bensing, R. and O. Schroeder  
1962 *Homicide in an Urban Community*. Springfield, IL: Thomas.
- Bernstein, Ilene, Edward Kick, Jan Leung and Barbara Schulz  
1977 "Charge reduction: an intermediary stage in the process of labeling criminal defendants." *Social Forces*. In press.
- Blumberg, Abraham S.  
1967 "The practice of law as confidence game: organizational co-optation of a profession." *Law and Society Review* 1:15-39.



- Brodsky, Annette M. (ed.)  
1975 *The Female Offender*. Sage Contemporary Social Science Issues 19. Beverly Hills, Ca.: Sage.
- Burke, Peter and Austin Turk  
1975 "Factors affecting postarrest dispositions: a model for analysis." *Social Problems* 22:313-32.
- Chambliss, W. J. and R. B. Seidman  
1971 *Law, Order and Power*. Reading, Ma.: Addison-Wesley.
- Chiricos, T. and G. Waldo  
1975 "Socioeconomic status and criminal sentencing: an empirical assessment of a conflict proposition." *American Sociological Review* 40:753-72.
- Cohen, Jacob  
1968 "Multiple regression as a general data analytic system." *Psychological Bulletin* 70:426-43.
- Erikson, Kai T.  
1964 "Notes on the sociology of deviance." Pp. 9-21 in Howard S. Becker (ed.), *The Other Side: Perspectives on Deviance*. New York: Free Press.
- Garfinkel, Harold  
1949 "Research notes on inter- and intra-racial homicides." *Social Forces* 27:369-81.  
1956 "Some sociological concepts and methods for psychiatrists." *Psychiatric Research Reports* 6:181-95.
- Gibbs, Jack  
1972 "Issues in defining deviant behavior." Pp. 39-68 in R. A. Scott and Jack Douglas (eds.), *Theoretical Perspectives on Deviance*. New York: Basic Books.
- Goode, Erich  
1975 "On behalf of labeling theory." *Social Problems* 22:570-83.
- Gove, Walter  
1975 *The Labelling of Deviance: Evaluating a Perspective*. New York: Wiley.
- Hagan, John L.  
1974 "Extra-legal attributes and criminal sentencing: an assessment of a sociological viewpoint." *Law and Society Review* 8:357-84.  
1975 "Parameters of criminal prosecution: an application of path analysis to a problem of criminal justice." *Journal of Criminal Law and Criminology* 65:536-44.
- Hogarth, John  
1971 *Sentencing as a Human Process*. Toronto: University of Toronto Press.
- Kerlinger, Fred and Elazar Pedhazur  
1973 *Multiple Regression in Behavioral Research*. New York: Holt, Rinehart and Winston.
- Kitsuse, John  
1975 "The 'new conception of deviants' and its critics." Pp. 273-84 in Walter Gove (ed.), *The Labelling of Deviants*. New York: Wiley.
- Kitsuse, John and Aaron Cicourel  
1963 "A note on the uses of official statistics." *Social Problems* 11:131-9.
- Lemert, Edwin  
1951 *Social Pathology*. New York: McGraw-Hill.
- Lofland, John  
1969 *Deviance and Identity*. Englewood Cliffs, N.J.: Prentice-Hall.
- Miller, F.W.  
1970 *Prosecution: The Decision to Charge a Suspect with a Crime*. Boston: Little, Brown.
- Morrison, D. and R. Henkel  
1970 *The Significance Test Controversy: A Reader*. Chicago: Aldine.
- Pound, Roscoe and Felix Frankfurter  
1922 *Criminal Justice in Cleveland*. Montclair, N.J.: Patterson Smith.
- Quinney, Richard  
1970 *The Social Reality of Crime*. Boston: Little, Brown.
- Roballo, Johnny, James Hall and Ronald Peck versus Judges and Justices of New York City  
1974 *Plaintiffs' Memorandum on the Merits*. New York: United States District Court 74 Civ. 2113-MEL.
- Rosett, Arthur and Donald Cressey  
1976 *Justice by Consent*. Philadelphia: Lippincott.
- Schur, Edwin M.  
1971 *Labeling Deviant Behavior*. New York: Harper and Row.  
1975 "Comment." Pp. 285-94 in Walter Gove (ed.), *The Labelling of Deviants*. New York: Wiley.
- Simon, Rita  
1975 *Women and Crime*. Lexington, Ma.: Lexington Books.
- Swigert, Victoria Lynn and Ronald A. Farrell  
1977 "Normal homicides and the law." *American Sociological Review* 42:16-32.
- Tannenbaum, Frank  
1938 *Crime and the Community*. Boston: Ginn.
- Tittle, Charles  
1975 "Labelling and crime: an empirical evaluation." Pp. 157-79 in Walter Gove (ed.), *The Labelling of Deviance*. New York: Wiley.
- Turk, Austin  
1969 *Criminality and the Legal Order*. Chicago: Rand McNally.  
1976 "Law, conflict and order: from theorizing to theories." *Canadian Review of Sociology and Anthropology* 13:282-94.
- Wald, Patricia and Daniel Freed  
1966 "The Bail Reform Act of 1966: a practitioner's primer." *American Bar Association Journal* 52:940-5.
- Zeisel, Hans, Jessica de Grazia and Lucy Friedman  
1975 *A Criminal Justice System under Stress*. New York: Vera Institute of Justice.